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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,723	07/22/2002	Benoit Couet	US57.0410-W0	6931

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Schlumberger Doll Research
Intellectual Property Law Department
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EXAMINER

BELLAMY, TAMIKO D

ART UNIT PAPER NUMBER

2856

DATE MAILED: 08/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

10/088,723

Applicant(s)

COUET ET AL.

Examiner

Tamiko D. Bellamy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-23 and 26-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-23 and 26-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 July 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Informalities

1. Amendment dated 5/12/03 has been received and entered. Claims 2, 24, and 25 have been canceled. Claims 1, 3-23, and 26-40 are currently pending.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the power supply must be shown on the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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4. Claims 1, 3-23, and 26-40 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4-22, and 25-32, 34, and 36-41 of copending Application No. 10/088,752. Although the conflicting claims are not identical, they are not patentably distinct from each other because the examined claims are anticipated by the reference claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

With respect to claim 1, the copending application '752 does not specifically recite the use a frequency range of 10 kHz to 250 kHz. However the copending application '752 recites in claims 1 and 6 the use of an acoustic device adapted to operate in longitudinal mode, the device includes a monitoring surface directly exposed to fluids, the deposition of material on the monitoring surface is monitored by measuring a change in resonance frequency of the acoustic device, and a power supply, and a frequency range of 10 kHz to 250 kHz.

With respect to claims 3, and 21, the copending application '752 recites in claims 4 and 20, the use of a transducer, and a focussing element coupled to the transducer.

With respect to claim 4, the copending application '752 recites in claim 5 and the use of a focussing element than is an acoustic horn.

With respect to claims 5, 22, and 37, the copending application '752 recites in claims 6, 21, and 38 the use of a resonance frequency of the acoustic device is in the range of 10 kHz to 150 kHz.

With respect to claim 6, the copending application '752 recites in claim 7 the use of a resonance frequency of the acoustic device is in the range of 50 kHz to 100 kHz.

With respect to claim 7, claim is rejected as being a dependent of claim 1.

With respect to claims 8, 18, and 38, the copending application '752 recites in claims 8, 17, and 39 the use of monitoring surface is located on or near one of the following devices switches, valves, sleeves, and mandrels.

With respect to claim 9, the copending application '752 recites in claim 9 the use of a deposit removal system.

With respect to claims 10 and 23, the copending application '752 recites in claims 10 and 22 the use of the deposit removal system includes a disposition inhibiting or removing chemical agent.

With respect to claim 11, the copending application '752 recites in claim 11 the use of the deposit removal system uses the acoustic device to exert a physical force onto the deposited material.

With respect to claim 12, the copending application '752 recites in claim 12 the use of the deposition removal system is near a sensor.

With respect to claims 13 and 26, the copending application '752 recites in claims 13 and 25 the use of the sensor is selected from a group comprising optical sensors, electrochemical sensors, or acoustic sensors.

With respect to claim 14, the copending application '752 recites in claim 14 the use of the exposed sensor surface is selected from a group comprising optical windows, membranes, or sensitive areas of acoustic sensors.

With respect to claim 15, the copending application '752 recites in claim 15 the use of the sensor includes an additional sensing system.

With respect to claim 16, the copending application '752 recites in claim 16 the use of a deposit monitor adapted to measure deposition of material, a power supply, a deposit removal system in communication with the deposit monitor, and the deposit removal system being in a control loop with said deposit monitor.

With respect to claim 17, claim is rejected as being a dependent of claim 16.

With respect to claim 19, the copending application '752 recites in claim 18 the use of deposit monitor further comprises an acoustic device adapted to operate in a resonance mode.

With respect to claim 20, the copending application '752 recites in claim 19 the use of an acoustic device operates in a longitudinal mode.

With respect to claim 26, the copending application '752 recites in claim 25 a monitor selected from a group comprising of optical sensors, electro-chemical sensors, or acoustic sensors.

With respect to claim 27, the copending application '752 recites in claim 26 a gamma ray density measurement system.

With respect to claim 28, the copending application '752 recites in claim 27 a monitoring surface that is a nuclear window.

With respect to claim 29, the copending application '752 recites in claim 28 a monitor that is an optical fluid analyzer.

With respect to claim 30, the copending application '752 recites in claim 29 a monitoring surface that is an optical window.

With respect to claim 31, the copending application '752 recites in claim 30 a monitor that measures activity of ionic species.

With respect to claim 32, the copending application '752 recites in claim 31 a monitor surface that is a membrane of an ion sensitive electrode.

With respect to claim 33, the copending application '752 recites in claim 32 a monitor surface that is a separation membrane.

With respect to claim 34, the copending application '752 recites in claim 34, whereby the thickness of the deposited material of 600 microns can be distinguished from a thickness of deposited material of 1050 microns.

With respect to claim 35, the copending application '752 recites in claim 36, the acoustic device operates in longitudinal mode.

With respect to claim 36, the copending application '752 recites in claim 37 the use of a transducer, and an acoustic horn coupled to the transducer.

With respect to claim 39, the copending application '752 recites in claim 40 the use the acoustic device to exert a physical force.

With respect to claim 40, the copending application '752 recites in claim 41 the deposition removal system near a sensor having a surface exposed to fluids.

Conclusion

5. This action is a **final rejection** and is intended to close the prosecution of this application. Applicant's reply under 37 CFR 1.113 to this action is limited either to an appeal to

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the Board of Patent Appeals and Interferences or to an amendment complying with the requirements set forth below.

If applicant should desire to appeal any rejection made by the examiner, a Notice of Appeal must be filed within the period for reply identifying the rejected claim or claims appealed.

If applicant should desire to file an amendment, entry of a proposed amendment after final rejection cannot be made as a matter of right unless it merely cancels claims or complies with a formal requirement made earlier. Amendments touching the merits of the application which otherwise might not be proper may be admitted upon a showing a good and sufficient reasons why they are necessary and why they were not presented earlier.

A reply under 37 CFR 1.113 to a final rejection must include the appeal from, or cancellation of, each rejected claim. The filing of an amendment after final rejection, whether or not it is entered, does not stop the running of the statutory period for reply to the final rejection unless the examiner holds the claims to be in condition for allowance. Accordingly, if a Notice of Appeal has not been filed properly within the period for reply, or any extension of this period obtained under either 37 CFR 1.136(a) or (b), the application will become abandoned.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamiko D. Bellamy whose telephone number is (703) 305-4971. The examiner can normally be reached on Monday through Friday 9:00 AM to 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (703) 305-4705. The fax phone numbers for the


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organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

Tamiko Bellamy

T.B.
July 31, 2003


HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
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